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22 TORRANCE POLICE DEPARTMENT

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14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA

16 ROBERT THOMSON,

Case No. CV11-06154 SJO (JCx)

17 Plaintiff,

**DEFENDANT TORRANCE POLICE
DEPARTMENT'S ANSWER TO
PLAINTIFF'S SECOND AMENDED
COMPLAINT**

18 vs.

19 TORRANCE POLICE DEPARTMENT
20 and THE LOS ANGELES COUNTY
21 SHERIFFS DEPARTMENT,

Date Action Filed: July 26, 2011

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Defendants.

Defendant TORRANCE POLICE DEPARTMENT (“Defendant”) hereby answers the Second Amended Complaint (“Complaint”) filed by Plaintiff ROBERT THOMSON (“Plaintiff”) as follows:

PREFATORY STATEMENT

Answering the prefatory statement on page 1 of the Complaint, Defendant admits that it denied Plaintiff's application under California Penal Code section 12050 for a concealed carry weapon ("CCW") permit. Except as expressly admitted herein, Defendant denies each and every allegation contained in the prefatory statement on page 1 of the Complaint both generally and specifically.

FACTUAL BACKGROUND

11 1. In response to the allegations contained in Paragraph 1, Defendant
12 admits that Plaintiff applied for a CCW permit from Defendant and was denied a
13 CCW permit by Defendant on April 5, 2011. Defendant is without sufficient
14 knowledge or information to form a belief as to the truth of the remaining
15 allegations contained in said paragraph, and on that basis denies each and every
16 allegation contained therein.

17 2. In response to the allegations contained in Paragraph 2, Defendant
18 affirmatively alleges that Plaintiff's allegations regarding his right to carry a
19 concealed weapon constitute legal conclusions requiring no response, and that
20 California law regarding the right to carry concealed weapons speaks for itself and
21 is the best evidence as to its content. Based on those affirmative allegations,
22 Defendant denies each and every allegation contained therein.

23 3. In response to the allegations contained in Paragraph 3, Defendant is
24 without sufficient knowledge or information to form a belief as to the truth of the
25 allegations contained in said paragraph, and on that basis denies each and every
26 allegation contained therein.

27 4. In response to the allegations contained in Paragraph 4, Defendant is
28 without sufficient knowledge or information to form a belief as to the truth of the

1 allegations contained in said paragraph, and on that basis denies each and every
2 allegation contained therein.

3 5. In response to the allegations contained in Paragraph 5, Defendant is
4 without sufficient knowledge or information to form a belief as to the truth of the
5 allegations contained in said paragraph, and on that basis denies each and every
6 allegation contained therein.

7 6. In response to the allegations contained in Paragraph 6, Defendant is
8 without sufficient knowledge or information to form a belief as to the truth of the
9 allegations contained in said paragraph, and on that basis denies each and every
10 allegation contained therein.

11 7. In response to the allegations contained in Paragraph 7, Defendant
12 admits that the California Legislature has passed Assembly Bill AB 144. Defendant
13 affirmatively alleges that AB 144 speaks for itself and is the best evidence as to its
14 content. Except as expressly admitted and affirmatively alleged herein, Defendant
15 denies each and every allegation contained in paragraph 7 both generally and
16 specifically.

17 8. In response to the allegations contained in Paragraph 8, Defendant is
18 without sufficient knowledge or information to form a belief as to the truth of the
19 allegations contained in said paragraph, and on that basis denies each and every
20 allegation contained therein.

PARTIES

22 9. In response to the allegations contained in Paragraph 9, Defendant
23 admits that Plaintiff is a natural person. Defendant is without sufficient knowledge
24 or information to form a belief as to the truth of the remaining allegations contained
25 in said paragraph, and on that basis denies each and every allegation contained
26 therein.

27 10. In response to the allegations contained in Paragraph 10, Defendant
28 affirmatively alleges that the Torrance Police Department is a department of the City

1 of Torrance, which is a Charter City governed as a Council/Manager form of
2 government under the laws of the State of California. Except as expressly admitted
3 herein, Defendant denies each and every allegation contained in paragraph 10 both
4 generally and specifically.

5 11. In response to the allegations contained in Paragraph 11, Defendant is
6 without sufficient knowledge or information to form a belief as to the truth of the
7 allegations contained in said paragraph, and on that basis denies each and every
8 allegation contained therein.

JURISDICTION & VENUE

10 12. In response to the allegations contained in Paragraph 12, Defendant
11 affirmatively alleges that this Court has jurisdiction over this action under 28 U.S.C.
12 section 1331 only if this action states a valid claim for relief under 42 U.S.C. section
13 1983. Except as expressly affirmatively alleged herein, Defendant denies each and
14 every allegation contained in paragraph 12 both generally and specifically.

13. In response to the allegations contained in Paragraph 13, Defendant
admits the allegations contained therein.

LEGAL BACKGROUND

18 14. In response to the allegations contained in Paragraph 14, Defendant
19 denies each and every allegation contained therein both generally and specifically.

20 15. In response to the allegations contained in Paragraph 15, Defendant
21 denies each and every allegation contained therein both generally and specifically.

22 16. In response to the allegations contained in Paragraph 16, Defendant
23 admits that “the Bill of Rights” is the collective name for the first ten amendments
24 of the United States Constitution. Defendant affirmatively alleges that the Bill of
25 Rights speaks for itself and is the best evidence as to its content. Except as
26 expressly admitted and affirmatively alleged herein, Defendant denies each and
27 every allegation contained in paragraph 16 both generally and specifically.

28 || 17. Defendant admits the allegations of Paragraph 17.

1 18. In response to the allegations contained in Paragraph 18, Defendant
 2 affirmatively alleges that the *District of Columbia v. Heller* opinion speaks for itself
 3 and is the best evidence as to its content. Except as expressly alleged herein,
 4 Defendant denies each and every allegation contained in Paragraph 18 both
 5 generally and specifically.

6 19. In response to the allegations contained in Paragraph 19, Defendant
 7 affirmatively alleges that the *District of Columbia v. Heller* opinion speaks for itself
 8 and is the best evidence as to its content. Except as expressly alleged herein,
 9 Defendant denies each and every allegation contained in paragraph 19 both
 10 generally and specifically.

11 20. In response to the allegations contained in Paragraph 20, Defendant
 12 affirmatively alleges that the *Comite de Jornalero de Redondo Beach v. City of*
13 Redondo Beach case speaks for itself and is the best evidence as to its content.
 14 Except as expressly alleged herein, Defendant denies each and every allegation
 15 contained in paragraph 20 both generally and specifically.

16 21. In response to the allegations contained in Paragraph 21, Defendant
 17 denies each and every allegation contained therein both generally and specifically.

18 22. In response to the allegations contained in Paragraph 22, Defendant
 19 affirmatively alleges that Defendant's good cause policy speaks for itself and is the
 20 best evidence as to its content. Except as expressly alleged herein, Defendant denies
 21 each and every allegation contained in Paragraph 22 both generally and specifically.

22 23. In response to the allegations contained in Paragraph 23, Defendant
 23 affirmatively alleges that Defendant's good cause policy speaks for itself and is the
 24 best evidence as to its content. Except as expressly alleged herein, Defendant denies
 25 each and every allegation contained in Paragraph 23 both generally and specifically.

26 24. In response to the allegations contained in Paragraph 24, Defendant
 27 affirmatively alleges that Defendant's good cause policy speaks for itself and is the
 28 best evidence as to its content. Except as expressly alleged herein, Defendant denies

1 each and every allegation contained in Paragraph 24 both generally and specifically.

2 25. In response to the allegations contained in Paragraph 25, Defendant is
3 without sufficient knowledge or information to form a belief as to the truth of the
4 allegations contained in said paragraph, and on that basis denies each and every
5 allegation contained therein both generally and specifically.

FIRST CAUSE OF ACTION

7 26. In response to the allegations contained in Paragraph 26, Defendant
8 denies each and every allegation contained therein both generally and specifically.

9 27. In response to the allegations contained in Paragraph 27, Defendant
10 denies each and every allegation contained therein both generally and specifically.

11 28. In response to the allegations contained in Paragraph 28, Defendant
12 denies each and every allegation contained therein both generally and specifically.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

16 29. The Complaint and its one cause of action asserted therein fails to state
17 a claim upon which relief can be granted against Defendant.

SECOND AFFIRMATIVE DEFENSE

(Failure to Mitigate Damages)

20 30. The relief sought by Plaintiff is barred to the extent he failed to take all
21 necessary steps to mitigate any damages he allegedly suffered.

THIRD AFFIRMATIVE DEFENSE

(No Constitutional Deprivation—Qualified Immunity)

24 31. Neither Defendant nor its employees or agents deprived Plaintiff of any
25 clearly established constitutional or statutory rights of which Defendant or its
26 employees or agents reasonably should have been or could have been aware. As
27 such, Defendant is entitled to qualified immunity.

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FOURTH AFFIRMATIVE DEFENSE

(Failure to Sue Proper Party)

32. The relief sought by Plaintiff is barred to the extent he failed to sue the proper party.

FIFTH AFFIRMATIVE DEFENSE

(Ripeness)

33. Defendant alleges that Plaintiff is barred from pursuing this action to the extent Plaintiff's claims for relief are barred because they are not ripe for judicial review.

SIXTH AFFIRMATIVE DEFENSE

(Failure to Exhaust Administrative Remedies)

12 34. Defendant is informed, believes and thereupon alleges that Plaintiff has
13 failed to exhaust all applicable federal or state administrative remedies.

SEVENTH AFFIRMATIVE DEFENSE

(Lack of Standing)

16 35. The Complaint and each and every cause of action pled therein is
17 barred due to the fact that Plaintiff lacks standing to sue Defendant for the claims
18 alleged in the Complaint.

WHEREFORE, Defendant TORRANCE POLICE DEPARTMENT prays for judgment against Plaintiff ROBERT THOMSON as follows:

- 23 1. That Plaintiff take nothing by reason of his Complaint;

24 2. That judgment on the Complaint be entered in favor of Defendant;

25 3. That Defendant be awarded its costs of suit incurred as a result of this

26 action;

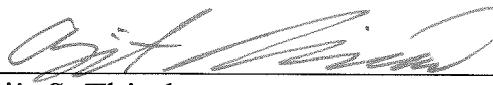
27 4. That Defendant be awarded its attorneys' fees and litigation expenses

28 as a result of this action; and

1 5. That the Court award such other and further relief as deemed just and
2 proper.
3

4 Dated: December 6, 2011

RUTAN & TUCKER, LLP
ROBERT S. BOWER
AJIT S. THIND

6 By: 

7 Ajit S. Thind
8 Attorneys for Defendant
9 TORRANCE POLICE
10 DEPARTMENT

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